

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SAFAA MUKHTAR, a developmentally
disabled person, by his Guardian,
EMAN MUKHTAR

Plaintiff,

Case No. 04-70913

v.

Honorable Arthur J. Tarnow
United States District Judge

CHARTER TOWNSHIP OF CLINTON,
a municipal corporation MARK
KRUTELL, in his official and individual
capacities and NORMAN GRALESKI,
in his official and individual capacities,
jointly and severally,

Mag. Judge Morgan

Defendants.

_____ /

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [25]**

This case involves the beating of Plaintiff by two Clinton Township police officers, Mark Krutell and Norman Galeski.

On April 25, 2005, Defendants filed their motion for summary judgment. Defendants argue: (1) Plaintiff's equal protection claim against Clinton Township should be dismissed because there is no evidence of intentional discrimination; (2) Plaintiff's equal protection claim against the defendant officers should be dismissed because there is no evidence of intentional discrimination; (3) Plaintiff's excessive force claim against Clinton Township should be dismissed because there is no evidence of a Township policy or custom to support liability under § 1983; (4) Plaintiff's claims against the defendant officers should be dismissed because the officers are entitled to qualified

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immunity; and (5) Plaintiff's malicious prosecution claims against the individual officers should be dismissed because there is no evidence that the officers made a probable cause determination as to Plaintiff's prosecution by the Township's attorneys.

On July 12, 2005, the Court heard oral argument on Defendants' motion. For the reasons stated on the record, the Court HEREBY ORDERS AS FOLLOWS:

1. As to Plaintiff's equal protection claim against Clinton Township, Defendants' motion for summary judgment is GRANTED;

2. As to Plaintiff's equal protection claim against Officers Krutell and Galeski, Defendants' motion for summary judgment is GRANTED;

3. As to Plaintiff's excessive force claim against Clinton Township, Defendants' motion for summary judgment is DENIED;

4. As to Plaintiff's excessive force claims against Officers Krutell and Galeski, Defendants' motion to dismiss on grounds of qualified immunity is DENIED;

5. As to Plaintiff's malicious prosecution claims against Officers Krutell and Galeski, Defendants' motion for summary judgment is DENIED.

IT IS SO ORDERED.

s/Arthur J. Tarnow

Arthur J. Tarnow

United States District Judge

Dated: July 12, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 12, 2005, by electronic and/or ordinary mail.

s/Theresa E. Taylor

Case Manager